

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CHARLES BLEVINS,

Petitioner,

:

Case No. 1:05-cv-038

:

-vs-

Magistrate Judge Michael R. Merz

WARDEN, Ross Correctional Institution,

:

Respondent.

ORDER REINSTATING STAY OF PROCEEDINGS

On Motion of the Petitioner (Doc. No. 38), this Court on May 2, 2007, stayed further proceedings pending the outcome of (1) Petitioner's application for post-conviction DNA testing and (2) Petitioner's Amended First Post-Conviction Relief Petition, filed in the Hamilton County Common Pleas Court on July 2, 2003 (Doc. Nos. 38, 39). The Court was previously advised by the Warden's Status Report (Doc. No. 53) that the Hamilton County Common Pleas Court has ruled that the Amended First Post-Conviction Relief Petition was not properly filed and is therefore not before that court for a decision on the merits and thereupon dissolved the stay and allowed Petitioner until today to file an amended reply.

The case is now before the Court on Petitioner's unopposed Motion to further stay these proceedings pending the outcome of appeals to the Ohio Court of Appeals for Hamilton County and to the Ohio Supreme Court from the dismissal of the Amended First Post-Conviction Relief Petition. The State has the right to insist on exhaustion and Petitioner does not contest the need to exhaust by taking these two appeals.

Accordingly, these proceedings are again stayed pending the outcome of appeal by Petitioner

to the Hamilton County Court of Appeals and to the Ohio Supreme Court if necessary. The parties shall keep this Court currently advised of the status of the state court proceedings.

December 1, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge